

Date of decision: July 8,1996

For Approval and Signature:

The Hon'ble Mr.Justice N.J.Pandya

The Hon'ble Mr.Justice A.R.Dave

1. Whether Reporters of Local Papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India,19..  
  
thereunder?
5. Whether it is to be circulated to the Civil Judge?

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Mr.Rajni H.Mehta, L.A. for the appellant in all the matters.

Mr.P.K.Jani, L.A. for the respondents  
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Coram: N.J.Pandya & A.R.Dave,JJ.  
July 8,1996

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ORAL JUDGMENT (Per N.J.Pandya,J.)

Admit. With the consent of the parties, these appeals are taken up for final hearing.

2. In all the 3 matters, the appellant-Insurance Co. has come out with a case that as the vehicle involved in the incident was a goods vehicle, the passengers travelling therein are not covered under the Policy and the learned Tribunal Judge could not have awarded compensation for them. The decision reported in 23(1) GLR 911 further reiterated and confirmed in 34(1) GLR 779 clearly bars this. It is submitted that the conditions prescribed in those two judgments have not been fulfilled. It is quite clear from the Judgment under appeal.

3. However, so far as the Company is concerned, it does have a submission to make with regard to First Appeal No.228 of 1996 arising from M.A.C.P. No.1869 of 1988.

4. The learned Judge of Motor Accident Claims Tribunal(Main), Mehsana disposed of as many as 4 matters i.e. M.A.C.Petitions 1853, 1869, 1969 all of 1988 and 476 of 1989. Appeals are filed only in respect of the first 3 matters. In view of the aforesaid decisions and our findings, the only appeal that survives for our consideration will be First Appeal No.228 of 1996 arising from Motor Accident Claims Petition No.1869 of 1988.

5. The submission is with regard to the statutory limit of liability. In view of the aforesaid decision, when the Company is held liable under its contract of Insurance, obviously whatever be the contract, it must fulfill its liability, which consequently would mean that it cannot be held liable in excess of what it has contracted for. The contract is clearly for the statutory limit of liability namely Rs.1,50,000/-. This being the position, obviously, the award of the trial Court against the appellant-Insurance Company in excess of that amount will have to be set aside qua the Company. This is not to say that the award is disturbed in respect of the owner and driver of the vehicle. It will remain as it is.

6. The net result, therefore, is that First Appeal No.228 of 1996 partly succeeds. The award against the appellant-Company is modified and reduced to Rs.1,50,000/- with proportionate cost and interest as awarded by the trial Court. The remaining sum stands awarded in favour of the original applicants and against rest of the parties to the petition with no change whatsoever. The remaining two appeals are dismissed.

7. The sum of Rs.25,000/- lying with the Registry is ordered to be transmitted to the Tribunal. The amount having been deposited, on receipt of Rs.25,000/-, it shall be disbursed in accordance with Tribunal's order. So far as appeal No.228 of 1996 is concerned, the excess amount, if any, deposited by the Insurance Company shall be refunded to them.

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